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DEPT FOR SA/RA, SA/INS,
USDOC FOR BIS AND ITA, DOE FOR NNSA
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TAGS: [ETRD](#) [ETTC](#) [KSTC](#) [OTRA](#) [PREL](#) [KNNP](#) [PARM](#) [TSPA](#) [IN](#)
SUBJECT: "GOOD ENGAGEMENT" IS COMMON REFRAIN AT U.S.-INDIA
HIGH TECHNOLOGY COOPERATION GROUP MEETING IN NEW DELHI

REF: A. NEW DELHI 9260
[B](#). USDOC 5048
[C](#). USDOC 5024
[D](#). USDOC 4506
[E](#). USDOC 1184
[F](#). NEW DELHI 7436

NEW DELHI 00009400 001.2 OF 010

[1](#). (SBU) SUMMARY: U.S. Under Secretary of Commerce David McCormick and GOI Foreign Secretary Shyam Saran led U.S. and Indian delegations in the fourth meeting of the High Technology Cooperation Group (HTCG) in New Delhi on November 30 - December 1. The HTCG was formed in November 2002 to provide a standing framework for discussing high-technology issues of mutual interest. Each meeting of the HTCG has consisted of two separate days of discussions. The first day consists of a public-private forum in which U.S. and Indian industry develop recommendations for both governments to consider to reduce barriers to high-technology trade and cooperation. The second day consists of a government-to-government forum in which the U.S. and Indian Governments discuss export control and strategic trade and consider recommendations made by industry on ways to reduce barriers to high-technology trade.

[2](#). (U) On November 30, the HTCG held the public-private forum with participation by U.S. and Indian industry and government officials sponsored by the US-India Business Council (USIBC), Confederation of Indian Industry (CII), Federation of Indian Chambers of Commerce and Industry (FICCI), and AmCham. Areas of discussion included sector-specific sessions on biotechnology, nano-technology, and defense technology. On December 1, the two sides held the government-to-government meetings, which included a morning session on export controls followed by four sector-specific breakout sessions on defense trade, biotechnology, nanotechnology and information technology. Both Indian and USG officials and private sector participants characterized the HTCG meetings as very positive and encouraging. Most important to ensuring a successful outcome and preparing for the next HTCG will be follow-up by

both governments on agreed upon recommendations/action items detailed below. END SUMMARY.

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DAY 1: HTCG PUBLIC-PRIVATE SECTOR DIALOGUE
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13. (U) The public-private sector dialogue was launched by U/S McCormick and FS Saran in a plenary session attended by the Indian press and a large audience of U.S. and Indian private sector companies as well as government officials from both countries. Following the plenary session, sector-specific breakout sessions were held on biotechnology, nanotechnology, and defense technology, with the parties reconvening in a concluding session to review the following set of recommendations from U.S. and Indian industry for consideration during the government-to-government meetings on December 1:

Defense

-- The Government of India should consider the views of Indian and U.S. industry on implementation of the GOI,s defence offset policy, particularly related to the role of defense public sector undertakings, and development of the GOI,s national offset policy. Specifically consideration should be given to &best practices,8 clarity of definitions, direct and indirect offsets, and private sector involvement. Industry and the GOI should continue their dialogue on this issue;

-- Work towards better understanding of the licensing regimes on the US side and to work towards the evolution of a mechanism that could address Indian concerns regarding multi-layered licensing, delays and denials, including

NEW DELHI 00009400 002.2 OF 010

broader licenses;

-- Deputy Assistant Secretary for Industry and Security in the U.S. Department of Commerce, Matthew Borman, will identify a point of contact, to whom Indian industry could refer individual cases where difficulties and delays in obtaining licenses from the US government occur;

-- Note that technologies that are related to counter-terrorism, disaster management, homeland security, and are not critical and strategic are of special interest to Indian industry. These technologies could be identified for cooperative efforts to strengthen bilateral partnership;

-- Harness Indian strength in IT and manufacturing along with procurement with Indian industry to galvanize the partnership and provide the necessary impetus in partnership;

-- Seek better understanding of US procurement procedures for the Indian industry to facilitate its participation in US procurements is to be promoted and encouraged through organization of events on the sidelines of the regular industry events;

Biotechnology

-- Establish a task force/joint working group on biotechnology by private sector to keep the agenda moving faster;

-- Agree on protocols and guidelines for conducting clinical trials to expedite USFDA' s approval (For development of CROs(Clinical Research Organizations));

-- Create a Bi-national fund (maybe with DBT on Indian side and appropriate body on U.S. side) for supporting early stage risk ventures in biotechnology;

- Set up an Indo-US innovation promotion center;
- While appreciating the Patent Protection Act of India passed in 2005, U.S. industry members recommended putting a plan of action for capacity building and training of personnel to implement the Act;
- Establish a pilot project in one of the port/airport in India for employing best practices in the supply chain integrity of biotech products;
- Set up a program for capacity building in drug discovery and clinical research.
- US Side expressed the need for data exclusivity;
- Embrace the need for cooperation in area of agriculture with specific reference to transgenic plants with features such as drought/insect/pest resistance and plant seeds varieties with higher nutritional value;
- Recognize the need for transparent, predictable and equitable policy on price control of pharmaceuticals, with focus on the Development of Infrastructure, Promotion of Innovation, and Accountability and Transparency.

Nanotechnology

- Share Nanotechnology information and infrastructure by the researchers/scientists of the two sides;
- Exchange information and joint studies to assess the impact of nanomaterials on human health, environment and the implications of nanotechnology on society; Encourage contact building through exchange visits, technical meetings and

NEW DELHI 00009400 003.2 OF 010

workshops.

- Stimulate long-term collaboration in basic research in nanotechnology, including in nanostructured materials, nanoscale devices and systems, metrology, and modeling and simulation in nanotechnology;
- Encourage partnerships between research and development centers in both countries to conduct research and education in nanoscale science and engineering. Establish a US-India nanoscience and nanoengineering study institute;
- Undertake exchanges in the areas of metrology, patents, and societal implications of nanotechnology, as well as in precompetitive research in the areas of mutual interest such as health, energy, and sensors.

DAY 2: GOVERNMENT TO GOVERNMENT SESSIONS

14. (SBU) U/S McCormick and FS Saran kicked off the HTCG government-to-government dialogue on December 1 with brief opening statements in a plenary session. Saran reviewed progress in bilateral high-technology trade since the last meeting of the HTCG in November 2004. This included: completing the next steps in strategic partnership (NSSP), passing key regulations upgrading the export control system, and concluding a framework agreement on defense cooperation. Saran said that the GOI was ahead of industry in anticipating and creating regulations that promote a free and friendly environment for FDI. He added that now it is the responsibility of the U.S. government to promote the message to U.S. industry that India is a good place in which to invest. Saran advocated several actions by the USG to encourage greater bilateral economic activity, especially in the area of High Technology: review of U.S. licensing procedures post NSSP, review of the U.S. entity list, and continued outreach programs.

15. (SBU) Saran identified several areas where progress was achievable before President Bush's visit to India. These include: concluding a commercial space launch agreement, including an Indian launch date for carrying a US commercial package, establishing working groups in pharmaceuticals and medical equipment, and expanding clinical trials and testing in India. Saran stressed the importance of expanding the availability of temporary work permits in the U.S. for Indians, especially in the high technology sector. Limiting these opportunities dampens public enthusiasm for deepening economic and political relations with the U.S..

16. (SBU) Under Secretary McCormick then responded with a comprehensive review of U.S. licensing trends for exports of dual-use technology to India, emphasizing the positive impact the HTCG has had on dual-use trade. With regard to Indian policy changes, McCormick welcomed the passage of the WMD law as a major achievement in strengthening India's export control system. He emphasized the need for the GOI to show that it was effectively implementing the law as part of its nonproliferation commitments. This is particularly important in light of the July 18 announcement. As part of the completion of the NSSP, McCormick noted that the Department of Commerce has removed export and reexport license requirements for items controlled unilaterally by the United States for nonproliferation reasons) that is, items not subject to control under the NSG) to most end users in India. The rule also removed six Indian end users from the Entity List, including subordinate entities of the Indian Space Research Organization (ISRO) primarily involved in commercial space projects, and those Department of Atomic Energy civil nuclear power facilities under International Atomic Energy Agency safeguards. Finally, and with regard to high-technology trade development, McCormick stressed the importance of looking for concrete results in the day's sessions that could be followed-up on before the next HTCG.

NEW DELHI 00009400 004.2 OF 010

17. (U) A session on strategic trade and afternoon breakout sessions on biotechnology, information technology, nanotechnology, and defense technology followed the plenary.

STRATEGIC TRADE SESSION

18. (U) At the Strategic Trade session on December 1, MEA J/S (Americas) S Jaishankar outlined areas where India would like to make progress for the US delegation led by DAS Matthew Borman (Ref A). The delegations exchanged suggestions for facilitating trade, and agreed on a list of action items to direct future efforts. Jaishankar requested that the USG review the 1984 Memorandum of Understanding on high tech trade with an eye to retiring it, consider removing GOI entities from the Entities List, determine whether exports to India should continue to be controlled for regional stability reasons, review requiring support documentation for government end-users. He also requested more frequent provision of licensing data related to end-use visits and information on license applications returned without action. Jaishankar also observed that U.S.-India hi-tech trade continues to fall short of its potential due to misperceptions among potential buyers of the difficulties involved in purchasing from the United States.

19. (U) The participants also discussed the value of starting consultations on licensing early in a transaction's design, so that the American and Indian partners could prepare. However, Defense Trade Controls Director Ann Ganzer pointed out that talks must include the US vendor, as ultimately it is the vendor's decision on how to apply for a license. Borman and Ganzer agreed to provide a simplified summary of licensing options for use by Indian customers when planning procurements from the US.

Cybersecurity: Waiting for Answers

¶10. (U) National Security Council Secretariat Joint Secretary Arvind Gupta pointed out that the GOI is still

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awaiting answers from the US on proposals made at the last cybersecurity working group for a Joint Fund and Joint Research and Development Center. He also reiterated India's desire for technical exchanges of experts in cybersecurity, to include new areas such as transportation and financial services.

¶11. (U) Wrapping up the meeting, Jaishankar and Borman agreed to the following plan of action for progress:

For Both Governments

-- Review the 1984 Memorandum of Understanding (MOU) to determine whether it would be useful to formally end the MOU.

(Timeline: US review to be completed by January 31, 2006. Need GOI due date; Action: GOI)

-- Discuss joint outreach to other GOI agencies to explain US licensing requirements. (Timeline: USG proposal to GOI by January 31, 2006; Action: BIS, State)

For the USG

-- Verify that new regulations will be published in the Federal Register in the first week of December that eliminate the import certificate requirement for certain exports to GOI end users. (Timeline: This rule was published on December 1, 2005.)

-- Review whether India can be removed from the list of countries for which supporting documents are required for

NEW DELHI 00009400 005.2 OF 010

government-owned purchasers under Section 748.9(a)(2). (Timeline: See above: Rule published December 1, 2005.)

-- Determine whether the Department of Commerce can provide data on end-use checks on a more frequent basis to the GOI. (Timeline: USG provides this data monthly. Action: GOI needs to determine what additional frequency it desires.)

-- Take note of the GOI's request to remove the remaining Indian entities from the Entities List.

-- Provide two non-papers (dual-use and munitions) giving a simplified overview of the possibilities for licensing to explain to Indian users. (Timeline: USG to provide by January 31, 2006; Action: BIS, State)

-- Give to the GOI the USG comparison of the revised SCOMET lists to the NSG and MTCR lists. (Timeline: USG to provide by January 31; Action: State, Energy)

-- Consider providing to the GOI data on reasons for which license applications have been returned without action (RWA). (Timeline: USG to provide response by January 31, 2006; Action: BIS)

For the GOI

-- Review the USG analysis of the SCOMET lists and respond to perceived variances from the NSG and MTCR lists. (Timeline: GOI to provide date after analysis provided; Action: GOI)

BREAKOUT SESSION ON DEFENSE TECHNOLOGY

¶12. (U) Ministry of Defense (MoD) Joint Secretary Atul Patni led the GOI in this session and reviewed HTCG discussions on Defense Technology over the past one and a half days, noting that MoD officials had discussed at length the GOI's evolving offset policy and its new defense procurement system. He observed that Dr. Vijay Kelkar, a highly respected Indian authority on government reform who was commissioned to study the defense procurement process, had issued wide-ranging recommendations for reform in the procurement process. Some of these recommendations had been accepted and are in the process of being implemented, according to Patni.

¶13. (U) USDOC DAS Matthew Borman led the U.S. side and agreed that much progress had been made during the HTCG meetings. He defined the goal of the panel as developing recommendations for future courses of action by both governments for the HTCG. This would constitute a road map for the HTCG to pursue in the coming months and beyond. It would also prove useful in developing deliverables for President Bush's visit to India next year. Borman suggested that the panel discuss the suggestions of private industry and refine and develop these into recommendations for the two governments. In his view, the suggestions of private industry fell into two baskets: those that related to export licensing; and those that dealt with defense procurement.

¶14. (U) Following two hours of discussion, the Defense Technology panel agreed to the following recommendations for the HTCG:

-- The GOI agreed to take into account international known best practices in offsets in formulating the National offsets policy and address concerns involving the monitoring of offset obligations within the provisions of the 2005 Defense Procurement Procedures; (Timeline: ongoing; Action: GOI)

-- Take note of the Defense Production and Procurement Group,s (DPPG) action item regarding Request for Procurement (RFP) response time (GOI agreement to consider methods for extending the RFP response time). The GOI agreed to notify

NEW DELHI 00009400 006.2 OF 010

the USG of high-profile RFP response dates through the Office of Defense Cooperation at the American Embassy in New Delhi; (Timeline: ongoing; Action: GOI)

-- The GOI also agreed to follow up on the Defense Acquisition University (DAU) offer during the DPPG for a delegation from the American Embassy to visit DAU to learn more about programs in &life cycle costs8 and other opportunities that are available. The USG reiterated its commitment to arrange training programs for Indian officials on defense acquisition policies; (Timeline: ongoing; Action: GOI, Defense)

-- The USG agreed to provide a nonpaper on export licensing options that addresses concerns with obtaining numerous license approvals for single projecQs; (Timeline: This is the same action item as the fifth USG action item in the strategic trade area. (Timeline: USG to provide papers by January 31, 2006 Action by: BIS, State)

-- The USG agreed to identify a single point for Indian industry to obtain information and guidance regarding defense procurement and export licensing procedures. Timeline: (Timeline: USG will provide point of contact by January 6, 2006; Action: BIS).

-- The USG agreed to identify venues for procurement outreach to U.S. and Indian defense industries, such as the February U.S.-India Defense Industry Symposium. (Timeline: by USG to provide by February 3, 2005; Action: Defense)

BREAKOUT SESSION ON BIOTECHNOLOGY

¶15. (U) The session on biotechnology was chaired by GOI Director of Biotechnology at the Ministry of Science and Technology, Mr. Tripathi, and USDOC Director, Office of Policy, David Bohigian. The discussion started with GOI providing summary of new guidelines and regulations, which included: 1) GOI allows 100 percent FDI in the Biotech (BT) sector; 2) GOI is providing fiscal incentives to the BT sector, which includes Small Business Innovative Research (SBIR) grants to the industry; 3) the issue to data exclusivity has been addressed at an inter-ministerial meeting, and the proposal is with the Ministry of Chemicals and Fertilizer at this time. GOI also has regulations for the transfer of biological material. The Indian Council of Medical Research (ICMR) has the responsibility for reviewing Indo-U.S. proposals and for granting approval for transfer of biological material. U.S. Embassy Health Attache Lal responded by stating that there is a need to revisit ICMR's review procedures and guidelines for transfer of specimen as the present process is long and the outcome is unpredictable. DBT's Tripathi stated India needs to develop a regulatory system for clinical trials, a need that U.S. could help fulfill. Health Attache stated that HHS is in discussion with the Ministry of Health on this topic, and HHS/FDA is considering MOH's request.

¶16. (U) In response to a question on Indian airports/ports that have freezer facilities, DBT's Tripathi stated there are 14 ports with cold storage facilities and 4 ports (Mumbai, Hyderabad, Chennai, and Bangalore) have -20 C freezer facilities; however, the size of the cold rooms or freezers may be small to accommodate large shipments. On the issue of price control, DBT's Tripathi stated that their only 74 drugs are under price control and no biotech product is under price control. The Indian biotech industry is marketing their products in India and other unregulated markets without any GOI set pricing criteria. Dr. Gupta and DBT shared details of Indo-U.S. collaboration in agriculture biotechnology, including the agreement that was signed between USAID and DBT. Gupta added that "India has high-level of competence in agriculture biotechnology and we can clone genes of economic importance". India has a national facility for plant

NEW DELHI 00009400 007.2 OF 010

quarantine for transgenic plant material, and making plants resistant to drought and salinity as well as increasing nutritional quality is the focus of GOI's agricultural biotech program.

¶17. (U) Following the afternoon discussions, the biotechnology panel agreed to the following recommendations for follow-up action by the HTCG:

-- Promote the establishment of the Joint Working Group by the private sector, which will lay the strategy for promoting Indo-US collaboration in product development, testing, manufacturing and marketing of biotech products. (Timeline: by February 2006; Action by: MEA & BIS)

-- Establish a trained workforce in clinical research/trials and laboratory assays, who will conduct product evaluation and testing in both countries.
(The first workshop on this topic has been scheduled on the first week of April 2006; Action by: DBT & HSS)

-- Initiate an Indian delegation to visit the US Port facilities to establish a pilot project in one or more ports/airports in India for employing best practices in the supply chain integrity of biotech products. Indian side to provide information to the Indian and US Industry on refrigeration facilities at existing ports.
(Timeline: by May 2006; Action: MEA & US Homeland Security)

-- Organize a U.S. Government-sponsored series of technical trainings and exchanges for Indian patent examiners, IP

experts, IP attorneys and judges to address patent examination, IPR infringements, alternate dispute resolution and IP rights more generally with a view to facilitate enhanced commercial collaboration in biotechnology. (Timeline: The first of such trainings or exchanges will take place in May 2006; Action: MEA & USPTO)

-- Provide information to USPTO about the Indian policy to protect of regulatory data for biotech products against disclosure and reliance. (Timeline: by February 2006; Action: DBT)

-- Make best efforts to clarify, for Indian and US Industry, issues from the Indian Patent Act of 2005 related to biotechnology. (Timeline: May 2006; Action: DBT/MEA)

-- Develop a series of well-focused workshops for capacity building in biotechnology and biomedical research, biosafety, regulatory affairs and anti-counterfeiting in bio-pharmaceuticals. (Timeline: by February 2006; Action: DBT & DOC)

-- Reaffirm that biotech products are not under price control in India at this time and that any future policy for price controls on biopharmaceuticals should be transparent, predictable and equitable. (Action: DBT)

BREAKOUT SESSION ON INFORMATION TECHNOLOGY

¶18. (U) The afternoon IT Breakout Session of the HTCG Working Group was chaired by Dr. A.K. Chakravarti, Group Coordinator, Department of Information Technology (DIT), Ministry of Communications and Information Technology (MCIT) and Jamie Estrada, USDOC Deputy Assistant Secretary for Manufacturing, International Trade Administration (ITA).

Amendments to the IT Act and Data Privacy

¶19. (U) The GOI made a presentation on the current status of proposed amendments to the Information Technology Act of 2000, which include data privacy provisions. The Indian

NEW DELHI 00009400 008.2 OF 010

industry association NASSCOM (National Association for Software and Service Companies) was fully involved during the whole amendment drafting process. The Experts, Committee report was put on the MCIT/DIT website -- www.mit.gov.in; Department of Information Technology (DIT), Ministry of Communications and Information Technology (MCIT); Government of India (GOI)) for public comments, which were analyzed and appropriately incorporated into the amendments. The amendments are now under consideration by the Cabinet and the ministries for subsequent submission to the Indian Parliament. The updated executive committee's executive summary, along with the whole text of the proposed amendments to the IT Act are now on the website.

Status of the Indo-U.S. Cybersecurity Forum

¶20. (U) Participants agreed that the Third Plenary of the Indo-U.S. Cybersecurity Forum will be held in New Delhi n January 16-17, 2005. The U.S. side clarified that issues related to the bilateral Indo-U.S. cyber-security relationship are led through the Indo-U.S. Cybersecurity Forum.

Certification Requirements for Refurbished Computer Parts.

¶21. (U) The USG raised U.S. industry concerns regarding the certification requirements for refurbished computer parts for maintenance and warranties as a non-tariff barrier that should be examined within the HTCG, as well as in other appropriate working groups such as the Indo-U.S. Trade Policy

Forum. It was noted that the issue was discussed at the first meeting of the Indo-U.S. Trade Policy Forum.

¶22. (U) Following discussions, the parties tentatively agreed to the following:

Data privacy

-- The IT breakout session noted the executive summary as the initial non-paper. After the Cabinet approves the proposed amendments for placement before Parliament, an updated non-paper will be made available.

-- Hold an initial DVC, including U.S. and Indian industry representatives, on the subject of the amendments to the IT Act, after they are approved by parliament. Hold other DVCs on an ad hoc basis to discuss other appropriate issues.

Cybersecurity

-- Agreed to explore possibilities for: (a) Creating a joint fund for information security; holding exchange programs for cybersecurity experts; creating joint training and R&D centers of excellence.

-- The GOI put forward three non-paper proposals for future HTCG consideration:

-- "U.S.-India Collaborative Activities in Tele-medicine and E-Health Technologies;

-- "U.S.-India Collaborative Activities in Bio-informatics application research and training;

-- Industry-led workshop on ICT R&D initiatives focused on emerging countries.

-- USG will respond by March 1, 2006 to these three GOI proposals.

Refrubished Computer Parts

-- The GOI Ministry of External Affairs will respond by January 15, 2006.

Retail-Level E-Commerce

NEW DELHI 00009400 009.2 OF 010

-- The GOI MEA will respond by January 16, 2006 to the USG request for clarification of scope, conditions, and level of FDI allowed in India,s Retail-Level E-Commerce sector.

BREAKOUT SESSION ON NANOTECHNOLOGY

¶23. (U) Dr. Y.P. Kumar, Head, International Division, Department of Science & Technology (DST), led the Indian side of the HTCG Nanotechnology (NT) government-to-government breakout session with Dr. Mihail Roco of the National Science Foundation leading the US side, supported by Dr. Minoo Dastoor, Exploration Systems Directorate, NASA. The session revolved around trying to merge the draft statements of both sides. Dr. Kumar proposed that future NT work center around three overlapping phases of activity: 1) building contacts, 2) facilitating collaborative arrangements, and 3) providing direction for commercial/industrial application of NT. He also probed for interest in using Small Business Innovative Research (SBIR) activities to accelerate commercialization opportunities. Dr. Roco provided a significantly more detailed set of cooperative activities that nicely fleshed out Kumar's first two, with the U.S. also requesting that a mechanism for periodic review of IPR concerns be inserted. Dr. Roco took great pains to explain to Dr. Kumar that the USG would not be able to recommend industrial solutions or select particular NT applications or solutions for commercialization. Most of the meeting consisted of Dr.

Kumar's fruitless attempts to insert language supporting government guidance on industrial applications. When asked if the US was ready to make the commitments suggested in Dr. Roco's draft language (which would include a variety of lead agencies, from NSF and DOC/NIST to EPA and FDA), he replied that this language would need to be staffed interagency first.

¶24. (U) Following discussions, the parties agreed to the following:

-- Encourage contact building through exchange visits, technical meetings, workshops on research and development activities in the field on nanoscale science & engineering and other issues such as societal, ethical, public perception, environment, health, training on development of metrology, toxicology standards, nomenclature, IPR and other protocols (Action: NSF, GOI; Timeline: Ongoing);

-- Stimulate long term collaboration in research/application in nano science and engineering focusing on nano systems, nano devices, nano materials, including modeling and simulation in nanotechnology (Action: NSF, GOI; Timeline: Ongoing);

-- Encourage participation of industry in advancing development and application of nanotechnology in priority areas of mutual interest such as Health, Energy. India suggested to create a dedicated fund for this purpose; (Action: GOI to provide more specific proposal);

-- Establish an India-U.S. nanotechnology collaborative program with a working group comprising of representative from both sides. (Action: NSF, GOI; Timeline: Within the next six months)

¶25. (U) HTCG PARTICIPANTS:

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Dr. S. Jaishankar, JS(AMS), MEA
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NEW DELHI 00009400 010.2 OF 010

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Ambassador David Mulford
Deputy Chief of Mission Robert Blake
Political Minister Counselor Geoff Pyatt
Economic Minister Counselor Lee Brudvig
Health Attache Altaf Lal

¶26. (U) This cable has been cleared by Under Secretary
McCormick and U.S. HTCG delegation.
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